IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2311 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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INDRAVADANBHAI AMBALALBHAI MODI & 4 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR YOGESH S LAKHANI for Applicant(s) : 1 - 5.
MR.HL JANI APP for Respondent(s) : 1,
MR AK CHITNIS for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 16/04/2007

ORAL JUDGMENT

1. The petitioners have invoked the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the process issued by learned

J.M.F.C. Dholka on 01.02.1999 in Criminal Case No.253 of 1999, which was originally registered as Criminal Inquiry No.9 of 1999. The original complaint was filed by respondent No.2 herein as and in capacity of being the holder of power-of-attorney and, after an order to hold an enquiry under the provisions of Section 202 of the Code of Criminal Procedure, the impugned order for registering complaint and issuing process for the offences punishable under Sections 504, 506(2) and 114 of the Indian Penal Code was made.

2. Apart from the fact that the complaint was made by a person holding power-of-attorney for the offences alleged to have been committed against the persons for whom he was holding the power-of-attorney, it was seen that the Court had examined, during the enquiry, the holder of power-of-attorney and not the persons on whose behalf the complaint was stated to have been made. It was jointly submitted by learned counsel appearing on both sides that the criminal

complaint was an offshoot of the dispute of civil nature among the parties, which had arisen out of the transaction of land and that dispute of civil nature had been the subject-matter of civil litigation. Those, civil litigations were withdrawn or being withdrawn by the parties on whose behalf the criminal complaint was filed. Therefore, in short, the dispute was practically resolved and neither the complainant nor the parties, on whose purported authority the complaint was filed, were interested in pursuing the criminal proceedings.

3. Therefore, admittedly, further proceedings and prosecution of the criminal case were not desirable and were exercise in futility. Learned A.P.P. Mr.H.L. Jani having no objection and the learned counsel for the parties having made the above consensual submissions, the petition is allowed with the direction that the aforesaid Criminal Case No.253 of 1999 pending in the Court of learned J.M.F.C. Dholka and the orders made

therein shall stand quashed. Rule is made absolute with no order as to costs. Direct service is permitted.

(D.H.WAGHELA, J.)

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